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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE No. 05-20859-CR-HUCK(s)(s)

UNITED STATES OF AMERICA

v.

EDUARDO HILLMAN-WALLER,

Defendant.

PLEA AGREEMENT

The United States of America, by and through the undersigned Assistant United States Attorney, and EDUARDO HILLMAN-WALLER, (hereinafter referred to as the "defendant"), enter into the following agreement:

1. The defendant agrees to plead guilty to Count 1 of Criminal Indictment No. 05-20859-CR-HUCK(s)(s) which charges a conspiracy to commit wire fraud in violation of Title 18, United States Code, Section 1343 and to transport money obtained by fraud, in violation of Title 18, United States Code, Section 2314; all in violation of Title 18, United States Code, Section 371.

2. The United States agrees to move to dismiss Counts 2, 20, 26, 27, 28 and 59 of Criminal Indictment No. 05-20859-CR-HUCK(s)(s) at the time of sentencing.

3. The defendant is aware that the sentence for this offense will be imposed by the court considering the Federal Sentencing Guidelines and Policy Statements (hereinafter "Sentencing Guidelines"). The defendant acknowledges and understands that the court will compute an advisory sentence under the Sentencing Guidelines and that the applicable guidelines will be determined by the court relying in part on the results of a Pre-Sentence Investigation by the court's probation office, which investigation will commence after the guilty plea has been entered. The defendant is

also aware that, under certain circumstances, the court may depart from the advisory sentencing guideline range that is has computed, and may raise or lower that advisory sentence under the Sentencing Guidelines. The defendant is further aware and understands that the court is required to consider the advisory guideline range determined under the Sentencing Guidelines, but is not bound to impose that sentence; the court is permitted to tailor the ultimate sentence in light of other statutory concerns, and such sentence may be either more severe or less severe than the Sentencing Guidelines' advisory sentence. Knowing these facts, the defendant understands and acknowledges that the court has the authority to impose any sentence within and up to the statutory maximum authorized by law for the offense identified in paragraph 1 and that the defendant may not withdraw the plea solely as a result of the sentence imposed.

4. The defendant also understands and acknowledges that the court may impose a term of imprisonment of up to five years, followed by a term of supervised release of up to three years. In addition to a term of imprisonment and supervised release, the court may impose a fine of up to \$250,000.

5. The defendant further understands and acknowledges that, in addition to any sentence imposed under paragraph three of this agreement, a special assessment in the amount of \$100 will be imposed on the defendant. The defendant agrees that any special assessment imposed shall be paid at the time of sentencing.

6. The Office of the United States Attorney for the Southern District of Florida, (hereinafter "Office"), reserves the right to inform the court and the probation office of all facts pertinent to the sentencing process, including all relevant information concerning the offenses committed, whether charged or not, as well as concerning the defendant and the defendant's background. Subject only

to the express terms of any agreed-upon sentencing recommendations contained in this agreement, this Office further reserves the right to make any recommendation as to the quality and quantity of punishment.

7. The United States agrees that it will recommend at sentencing that the court reduce by three (3) levels the sentencing guideline level applicable to the defendant's offense, pursuant to Section 3E1.1(b) of the Sentencing Guidelines, based upon the defendant's recognition and affirmative and timely acceptance of personal responsibility. The United States, however, will not be required to make this recommendation if the defendant: (1) fails or refuses to make a full, accurate and complete disclosure to the probation office of the circumstances surrounding the relevant offense conduct; (2) is found to have misrepresented facts to the government prior to entering this plea agreement; or (3) commits any misconduct after entering into this plea agreement, including but not limited to committing a state or federal offense, violating any term of release, or making false statements or misrepresentations to any governmental entity or official.

8. The United States and the defendant agree that, although not binding on the probation office or the court, they will jointly recommend that the court make the following findings and conclusions as to the sentence to be imposed:

a. Applicable Guidelines Manual: That the 2000 Guidelines Manual is the proper manual to be used in calculating the defendant's advisory sentencing range;

b. Loss to the victim as a result of the fraud conspiracy: That pursuant to U.S.S.G. § 2F1.1(b)(1)(P), the amount of the loss to the Government of Trinidad and Tobago as a result of this conspiracy is more than \$10 million and less than \$20 million, an amount that results in an increase of 15 levels in the defendant's advisory sentencing range.

c. Advisory sentencing range: That the applicable guideline to be used in calculating the defendant's advisory sentencing range is U.S.S.G. § 2F1.1; that under § 2F1.1(a), the defendant's Base Offense Level is 6; that under § 2F1.1(b)(1)(P), 15 levels are added due to the amount of loss; that under § 2F1.1(b)(2), 2 levels are added because the offense involved more than minimal planning; that under § 2F1.1(b)(6), 2 levels are added because the defendant participated in relocating a fraudulent scheme to another jurisdiction to avoid law enforcement; that under § 3B1.1, 3 levels are added because the defendant was the supervisor or manager of criminal activity which was extensive; that under § 3C1.1, 2 levels are added because the defendant willfully obstructed, impeded and attempted to obstruct and impede the administration of justice during the investigation and prosecution of this case; and that under § 3E1.1(b), 3 levels are subtracted for acceptance of responsibility (contingent on the satisfaction of the conditions enumerated above in paragraph (6); all resulting in a total offense level of 27. Assuming that the defendant is determined to have a criminal history category of I, a total offense level of 27 results in an applicable advisory guideline range for the defendant of 70 to 87 months. Because the maximum term of imprisonment for a violation of Title 18, United States Code, Section 371 as charged in Count 1 is 60 months, the defendant can only be sentenced to 60 months.

9. In view of the fact that the defendant will receive a 2 level increase in the sentencing guidelines for obstruction of justice, the United States will dismiss the charges in Criminal Indictment No. 06-20430-CR-ALTONAGA.

10. The defendant has agreed to plead guilty to Count 1 which is a violation of Title 18, United States Code, Section 371 which does not carry a forfeiture provision. That notwithstanding, the defendant agrees and consents to forfeit to the United States voluntarily and immediately all of

his right, title and interest in assets, and/or their substitutes which are subject to forfeiture pursuant to Title 18, United States Code, Section 981 (a)(1)(C) and the procedures set forth in Title 28, United States Code, Section 2461 (c), that is, a money judgment in the amount of \$2 million. Said money judgment shall be satisfied from sources including but not limited to the net sale proceeds or the deed for the real property located at 1111 Crandon Blvd. #A-904, Key Biscayne, Florida 33149. Said sale proceeds or deed shall be turned over to the United States at or before sentence to be applied toward any restitution order entered by the Court. Defendant agrees that the aforementioned property or substitute assets constitutes or is derived from any proceeds the defendant obtained, directly or indirectly, as a result of unlawful wire fraud, money laundering and conspiracy to commit such violations or was used or intended to be used, in any manner or part, to commit or facilitate the commission of such unlawful activities, including the violation to which he is pleading guilty and is therefore subject to forfeiture. The defendant knowingly and voluntarily waive any claim or defense he may have under the Eighth Amendment to the United States Constitution, including any claim of excessive fine or penalty with respect to the forfeited asset. The defendant knowingly and voluntarily waives his right to a jury trial on the forfeiture of assets. The defendant also agrees that the defendant shall assist this Office in all proceedings, whether administrative or judicial, involving the forfeiture to the United States of all rights, title, and interest, regardless of their nature or form, in all assets, including real and personal property, cash and other monetary instruments, wherever located, which the defendant or others to his/her knowledge have accumulated as a result of illegal activities. Such assistance will involve an agreement on defendant's part to the entry of an order enjoining the transfer or encumbrance of assets which may be identified as being subject to forfeiture, including but not limited to those specific properties set forth in the forfeiture counts of

the indictment. Additionally, defendant agrees to identify as being subject to forfeiture all such assets, and to assist in the transfer of such property to the United States by delivery to this Office upon this Office's request, all necessary and appropriate documentation with respect to said assets, including consents to forfeiture, quit claim deeds and any and all other documents necessary to deliver good and marketable title to said property.

11. The defendant knowingly and voluntarily agrees to waive any claim or defense he may have under the Eighth Amendment to the United States Constitution, including any claim of excessive fine or penalty with respect to the forfeited assets.

12. Pursuant to 18 U.S.C. § 3663 (a)(3), the defendant agrees to pay restitution in the amount of \$2 million to the Government of Trinidad and Tobago. Said restitution shall be paid in part from the proceeds of the sale of the real property identified for forfeiture in paragraph 10, supra. The government agrees not to seek forfeiture of any property or its substitute in excess of the \$2 million which is being recommended to satisfy any restitution order entered.

13. The defendant agrees that he shall cooperate fully with this Office by:

(a) providing truthful and complete information and testimony, and producing documents, records and other evidence, when called upon by this Office, whether in interviews, before a grand jury, or at any trial or other court proceeding;

(b) appearing at such grand jury proceedings, hearings, trials, and other judicial proceedings, and at meetings, as may be required by this Office; and

(c) if requested by this Office, working in an undercover role to contact and negotiate with others suspected and believed to be involved in criminal misconduct under the supervision of, and in compliance with, law enforcement officers and agents.

14. This Office reserves that right to evaluate the nature and extent of the defendant's cooperation and to make the defendant's cooperation, or lack thereof, known to the court at the time of sentencing. If in the sole and unreviewable judgement of this Office the defendant's cooperation is of such quality and significance to the investigation or prosecution of other criminal matters as to warrant the court's downward departure from the sentence required by the Sentencing Guidelines, this Office may at or before sentencing make a motion pursuant to Title 18, United States Code, Section 3553(e), Section 5K1.1 of the Sentencing Guidelines, or Rule 35 of the Federal Rules of Criminal Procedure subsequent to sentencing, reflecting that the defendant has provided substantial assistance and recommending sentence reduction. The defendant acknowledges and agrees, however, that nothing in this Agreement may be construed to require this Office to file such a motion and that this Office's assessment of the nature, value, truthfulness, completeness and accuracy of the defendant's cooperation shall be binding on the defendant.

15. The defendant understands and acknowledges that the court is under no obligation to grant a government motion pursuant to Title 18, United States Code, Section 3553(e), Section 5K1.1 of the Sentencing Guidelines or Rule 35 of the Federal Rules of Criminal Procedure, as referred to in paragraph 11 of this agreement, should the government exercise its discretion to file such a motion.

16. The defendant is aware that the sentence has not yet been determined by the court. The defendant also is aware that any estimate of the probable sentencing range or sentence that the defendant may receive, whether that estimate comes from the defendant's attorney, the government, or the probation office, is a prediction, not a promise and is not binding on the government, the probation office or the court. The defendant understands further that any recommendation that the

government makes to the court as to sentencing, whether pursuant to this agreement or otherwise, is not binding on the court and the court may disregard the recommendation in its entirety. The defendant understands and acknowledges, as previously acknowledged in paragraph 2 above, that the defendant may not withdraw his plea based upon the court's decision not to accept a sentencing recommendation made by the defendant, the government, or a recommendation made jointly by both the defendant and the government.

17. The defendant is aware that Title 18, United States Code, Section 3742, affords the defendant the right to appeal the sentence imposed in this case. Acknowledging this, in exchange for the undertakings made by the United States in this plea agreement, the defendant hereby waives all rights conferred by Title 18, United States Code, Section 3742, to appeal any sentence imposed, including any restitution order, or to appeal the manner in which the sentence was imposed, unless the sentence exceeds the maximum permitted by statute or is the result of an upward departure from the guideline range that the court establishes at sentencing. This appeal waiver includes a waiver of the right to appeal the sentence on the ground that the sentencing guidelines are in any respect unconstitutional, or on the grounds that any fact found by the Court at sentencing was not alleged in the indictment, admitted by the defendant, found by a jury, or found beyond a reasonable doubt. The defendant further understands that nothing in this agreement shall affect the government's right and/or duty to appeal as set forth in Title 18, United States Code, Section 3742(b). However, if the United States appeals the defendant's sentence pursuant to Section 3742(b), the defendant shall be released from the above waiver of appellate rights, except for the waiver of appeal on the ground that the sentencing guidelines are in any respect unconstitutional and on the grounds that any fact found by the court at sentencing was not alleged in the indictment, admitted by the defendant, found by a

jury, or found beyond a reasonable doubt. By signing this agreement, the defendant acknowledges that he has discussed the appeal waiver set forth in this agreement with his attorney. The defendant further agrees, together with the United States, to request that the district court enter a specific finding that the defendant's waiver of his right to appeal the sentence imposed in this case was knowing and voluntary.

18. This is the entire agreement and understanding between the United States and the defendant. There are no other agreements, promises, representations, or understandings.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

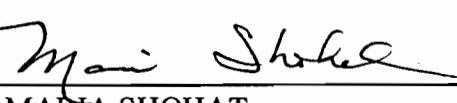
Date: 11/06/06

By: 
RICHARD D. GREGORIE
ASSISTANT UNITED STATES ATTORNEY

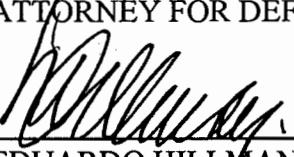
Date: 11/06/06

By: 
DON BIERMAN
ATTORNEY FOR DEFENDANT

Date: 11/06/06

By: 
MARIA SHOCHAT
ATTORNEY FOR DEFENDANT

Date: 11/06/06

By: 
EDUARDO HILLMAN-WALLER
DEFENDANT